

Message Text

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44

ORIGIN EB-11

INFO OCT-01 ARA-11 ADP-00 SSO-00 NSCE-00 USIE-00 INRE-00

AID-20 CIAE-00 COME-00 FRB-02 INR-10 NSAE-00 RSC-01

TRSE-00 XMB-07 OPIC-12 CIEP-02 LAB-06 SIL-01 SAL-01

OMB-01 L-03 H-02 PA-03 PRS-01 NSC-10 SS-15 STR-08

CEA-02 AF-10 EA-11 EUR-25 NEA-10 /186 R

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ARA/ LA/ BC: LGIRDLER

OPIC: MMAYS (SUBS)

TREASURY: JHENNESSY (INFO)

COMMERCE: DARRILL (INFO)

CIEP: LROSEN (INFO)

----- 020203

O R 091919 Z APR 73

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO IMMEDIATE

INFO ALL DIPLOMATIC POSTS

C O N F I D E N T I A L STATE 065336

INFORM CONSULS

E. O. 11652: GDS

TAGS: EFIN, EIND, CI

SUBJ: OPIC DENIAL OF ITT- CHILE EXPROPRIATION INSURANCE

CLAIM

INFORM CONSULS

1. OPIC HAS ANNOUNCED DECISION TO DENY ITT INSURANCE CLAIM
FOR EXPROPRIATION OF ITS CHILEAN SUBSIDIARY, CHILTELCO.

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OPIC DECISION BASED ON GROUNDS OF ITT NON- COMPLIANCE WITH ITS CONTRACTUAL OBLIGATIONS TO OPIC. PAYMENT OF ITT CLAIM WILL BE DETERMINED BY ARBITRATION. DEPARTMENT HOPES THAT ALLOWING THE CASE TO GO TO IMPARTIAL ARBITRATION WILL HAVE BENEFICIAL EFFECT OF REMOVING CONTROVERSY FROM HIGHLY CHARGED POLITICAL ARENA. IT IS THIS FACT OF ARBITRATION THAT POSTS SHOULD STRESS IN DISCUSSIONS.

2. DECISION DOES NOT RPT NOT REPRESENT ANY CHANGE IN USG EXPROPRIATION POLICY IN GENERAL, OR WITH RESPECT TO ITT IN PARTICULAR. FURTHERMORE, DECISION WITH RESPECT TO THIS INSURANCE POLICY DOES NOT IMPLY ANY DIMINUTION OF ITT RIGHTS UNDER INTERNATIONAL LAW TO COMPENSATION FROM GOC.

3. THERE FOLLOWS TEXT OF OPIC PRESS RELEASE. AT ITS DISCRETION, AND DRAWING ON PRESS RELEASE AND ABOVE COMMENT, EMBASSY SANTIAGO SHOULD TAKE SUITABLE OPPORTUNITIES TO EXPLAIN OPIC DECISION TO APPROPRIATE GOC OFFICIALS. INFO ADDRESSEES SHOULD DRAW ON SAME MATERIAL IN RESPONDING TO INQUIRIES.

4. BEGIN TEXT. THE OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC) ANNOUNCED TODAY THAT, BECAUSE OF NON-COMPLIANCE WITH CONTRACTUAL OBLIGATIONS, IT HAS DENIED THE INTERNATIONAL TELEPHONE AND TELEGRAPH COMPANY (ITT) INSURANCE CLAIM OF DOLS 92.5 MILLION IN CONNECTION WITH THE EXPROPRIATION OF THE CHILE TELEPHONE COMPANY. THIS DECISION WAS MADE TODAY BY THE OPIC BOARD OF DIRECTORS. IT IS UNDERSTOOD THAT ITT WILL EXERCISE ITS CONTRACTUAL RIGHT TO SUBMIT THE MATTER TO ARBITRATION.

BRADFORD MILLS, PRESIDENT OF OPIC, THE U. S. GOVERNMENT CORPORATION WHICH INSURES AGAINST POLITICAL RISKS OF VESTMENT IN DEVELOPING COUNTRIES, SAID THAT OPIC HAD ADVISED ITT TODAY OF THE DECISION IN THE CASE. MILLS SAID, " ITT FAILED TO COMPLY WITH ITS OBLIGATION UNDER OPIC CONTRACTS TO DISCLOSE MATERIAL INFORMATION TO OPIC. IN ADDITION, ITT INCREASED OPIC' S RISK OF LOSS BY FAILING TO PRESERVE ADMINISTRATIVE REMEDIES AS REQUIRED BY THE CONTRACTS, AND BY FAILING TO PROTECT OPIC' S INTEREST AS A POTENTIAL SUCCESSOR TO ITT' S RIGHTS."

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SINCE THE MATTER WILL BE SUBMITTED TO ARBITRATION,

MR. MILLS SAID THAT OPIC WILL MAKE NO FURTHER PUBLIC COMMENT ON THE ISSUES IN THE CASE.

MR. MILLS EMPHASIZED THAT OPIC' S DECISION RESULTS FROM ITT' S NON- COMPLIANCE WITH SPECIFIC CONTRACTUAL OBLIGATIONS, AND DOES NOT IN ANY WAY AFFECT THE INTERNATIONAL LEGAL RIGHT OF ITT TO RECEIVE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION FROM THE GOVERNMENT OF CHILE FOR ITS INTEREST IN THE CHILE TELEPHONE COMPANY. " IF OPIC IS ULTIMATELY REQUIRED TO PAY ANY COMPENSATION TO ITT," MILLS SAID, " OPIC WILL THEN SUCCEED TO AN APPROPRIATE PORTION OF ITT' S RIGHTS OF RECOVERY FROM THE GOVERNMENT OF CHILE, AND OPIC WILL PURSUE THOSE RIGHTS VIGOROUSLY."

DESCRIBING OPIC' S HANDLING OF CLAIMS BY U. S. INVESTORS IN CHILE, MR. MILLS NOTED THAT DURING THE LAST 2 1/2 YEARS, 18 CLAIMS HAVE BEEN FILED WITH OPIC, 14 FOR EXPROPRIATION AND FOUR FOR THE INABILITY OF THE INVESTOR TO CONVERT LOCAL CURRENCY INTO DOLLARS. INVESTORS INSURED BY OPIC HAVE RECEIVED MORE THAN DOLS 80 MILLION TO DATE RESOLVING FIVE OF THESE CLAIMS, AND TWO OTHER CLAIMS INVOLVING APPROXIMATELY DOLS 26 MILLION HAVE BEEN SATISFACTORILY SETTLED BETWEEN THE INVESTORS AND THE

CHILEAN GOVERNMENT WITH THE ASSISTANCE OF OPIC GUARANTIES. NINE CLAIMS ARE STILL BEING PROCESSED. ONE CLAIM OTHER THAN ITT' S IS IN DISPUTE. END TEXT. ROGERS

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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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Disposition Approved on Date:
Disposition Authority: golinofr
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30 JUN 2005

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Status: <DBA CORRECTED> gwr 971209
Subject: OPIC DENIAL OF ITT-CHILE EXPROPRIATION
TAGS: EFIN, EIND, CI
To: SANTIAGO
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